

**Appl. No. 10/037,508**  
**Amdt. dated October 27, 2005**  
**Reply to Office action of July 19, 2005**

## **REMARKS/ARGUMENTS**

In the Office action dated July 19, 2005, the Examiner rejected claims 1-20, all of which remain pending. Reconsideration of the application in view of the remarks set forth below is respectfully requested.

### **I. PROVISIONAL DOUBLE PATENTING**

The Examiner provisionally rejected claims 1-20 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-21 of copending Application No. 09/751,789. As the Examiner may be aware, application 09/751,789 has been abandoned, thereby precluding there being a double patenting issue.

### **II. REJECTIONS UNDER 35 U.S.C. § 102**

In the Office action, the Examiner rejected claims 1, 3-5, 10, 12-14, 19 and 20 under 35 U.S.C. § 102(a) as being anticipated by the Sun Fire 6800 Server reference. Specifically, the Examiner stated:

Claims 1, 3-5, 10, 12-14, 19, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Sun [F]ire 6800 Server, [http://sunsolve.sun.com/handbook pub/Systems/SunFire6800/SunFire6800.html](http://sunsolve.sun.com/handbook_pub/Systems/SunFire6800/SunFire6800.html) (hereinafter 6800).

With respect to claims 1, 10 and 20, 6800 teaches a headless server [i.e. Sun Fire 6800 Server] having a front [page 1, item 1, i.e. "Front Open View"] and a back [page 1, item 2, i.e. "Rear View"], the server comprising:

- a management processor [page 6, i.e. "controller"];
- a first network connector [page 3, item 3] disposed on the front of the server;
- a second network connector [page 7 and page 33] disposed on the back of the server; and
- a coupling device [page 5, i.e. "Patch Panel"] adapted to couple at least one of the first network connector and the second network connector to the management processor.

Office action, page 3.

Additionally, the Examiner addressed the publication date of the Sun Fire 6800 Server reference, stating:

In response to applicant's argument that "the Examiner has failed to particularize any disclosure in the SunFire reference having an actual publication dat (sic) prior to the filing (sic) date of the

**Appl. No. 10/037,508**  
**Amdt. dated October 27, 2005**  
**Reply to Office action of July 19, 2005**

present application." In the SunFire's [sic] reference has an actual publication date (i.e. October 2001[,] which [is] printed on pages 12, 18 and etc.) prior to the filing date of the present application (i.e. January 04, 2002).

Office action, page 8.

Applicants respectfully traverse this rejection because the Examiner improperly attributed a publication date to a web page. In the Office action, the Examiner cited an installation manual (pages 10-33 of the Sun Fire 6800 Server reference) and a web page (pages 1-9 of the Sun Fire 6800 Server reference). However, a web page is not a proper prior art reference under 35 U.S.C. § 102(a) without some indication of a publication date prior to the priority date of the present application. The M.P.E.P. states that "[p]rior art disclosures on the Internet or on an on-line database are considered to be publicly available as of the date the item was publicly posted. If the publication does not include a publication date (or retrieval date), it cannot be relied upon as prior art under 35 U.S.C. 102(a)." M.P.E.P. § 2128.

The Examiner has not established that the web page portion of the cited Sun Fire 6800 Server reference has a publication date prior to January 4, 2002, the filing date of the present application. In support of the present rejection, the Examiner cited certain pages of the manual as indicating a publication date of October, 2001. Indeed, it appears that the "Sun Fire 6800 System Installation Guide," was indeed published in October, 2001 and may be available via the link provided by the Examiner. However, the Examiner is not relying on information disclosed in the published manual in the rejection of the present claims.

Instead, the Examiner relied on pages that are available only via the website. For example, in rejecting independent claims 1, 10 and 20, the Examiner cited manually numbered pages 1, 3, 5, 6 and 7 of the packet provided by the Examiner with the present Office action. Applicants respectfully assert that the cited pages are not even part of the October 2001 Installation Guide. Indeed, the retrieval date on the pages cited by the Examiner in rejecting the independent claims is March 18, 2005, over three years after the filing date of the present application and about two and half years after the date of the Sun Installation

**Appl. No. 10/037,508**  
**Amdt. dated October 27, 2005**  
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Guide. Moreover, nothing provided by the Examiner indicates that the web page portion included the features cited by the Examiner prior to March 3, 2005. In other words, even if the Sun Fire 6800 System Installation Guide has a publication date of October 2001, the content of the web pages cited by the Examiner cannot be afforded this priority date since there is nothing to indicate that the information on the web pages was publicly available prior to March 18, 2005. Accordingly, the Examiner has not established that the web page portion of the Sun Fire 6800 Server reference is prior art under Section 102(a). Because the pages cited by the Examiner do not have a publication date before Applicants' filing date, it is clear that the cited web pages do not qualify as prior art against the present claims. At most, the "Sun Fire 6800 System Installation Guide," having a publication date of October, 2001, is the only portion that may be available as prior art.

With regard to the teachings of the only valid art cited by the Examiner, i.e., the "Sun Fire 6800 System Installation Guide," published in October, 2001, the published guide does not show all the features recited in independent claims 1, 10, and 20.

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every element or step of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Thus, if the claims recite even one element not found in the cited reference, the reference does not anticipate the claimed invention.

Claims 1 and 10 recite a "network connector disposed on the front of the server," and claim 20 recites "coupling a management console to a network connector located on a front portion of the computer." (Emphasis added.) The Examiner has not identified where the published portion of the "Sun Fire 6800

**Appl. No. 10/037,508**  
**Amdt. dated October 27, 2005**  
**Reply to Office action of July 19, 2005**

System Installation Guide" teaches a network connector on the front of a server. Indeed, on close inspection, Applicants have found no such disclosure or suggestion. Accordingly, Applicants respectfully assert that the "Sun Fire 6800 System Installation Guide" does not disclose or suggest at least these recited features. Because the "Sun Fire 6800 System Installation Guide" does not teach all the features recited in claims 1, 10 and 20, it cannot possibly anticipate the recited subject matter. Accordingly, Applicants respectfully request withdrawal of the Examiner's rejections and allowance of claims 1, 3-5, 10, 12-14, 19 and 20.

**III. REJECTIONS UNDER 35 U.S.C. § 103**

The Examiner rejected claims 2 and 11 under 35 U.S.C. § 103(a) as being obvious over the Sun Fire 6800 Server reference in view of the Kistler reference (U.S. Patent Publication No. 2002/0198934) and rejected claims 6-9 and 15-18 as being obvious over the Sun Fire 6800 Server reference in view of the Frostrom reference (U.S. Patent No. 6,561,827).

Applicants respectfully traverse these rejections. The burden of establishing a prima facie case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining or modifying the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination or modification. See *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a prima facie case, the Examiner must not only show that the combination includes all of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

Claims 2, 6-9, 11 and 15-18 are each dependent on a respective base claim rejected under 35 U.S.C. 102 as being anticipated by Sun Fire 6800 Server. As discussed above, the cited reference is not available as prior art against the present claims in its entirety. Further, the published portion of the cited reference ("Sun Fire 6800 System Installation Guide") which is available as prior art does

**Appl. No. 10/037,508**  
**Amdt. dated October 27, 2005**  
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not disclose each of the features recited in independent claims 1, 10 and 20. Applicants respectfully submit that neither the Kistler reference, nor the Frostrom reference, cures the deficiencies of the "Sun Fire 6800 System Installation Guide" reference with regard to the independent claims. Accordingly, based on their dependencies on allowable base claims, Applicants respectfully submit that claims 2, 6-9, 11 and 15-18 are also allowable over the cited references.

#### **IV. REQUEST FOR LEGIBLE DOCUMENTS**

Notwithstanding the arguments presented above, Applicants note that the images of the photocopies of certain of the web pages provided by the Examiner are illegible. Specifically, page 3-6 are not legible enough for interpretation by Applicants. If the Examiner continues to rely on this reference, Applicants respectfully request that the Examiner provide a clearer image of the web pages relied upon, or a link so that Applicants can inspect the cited materials such that a proper response may be prepared.

#### **V. CONCLUSION**

In view of the remarks set forth above, Applicants respectfully request reconsideration of the Examiner's rejections and allowance of all pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

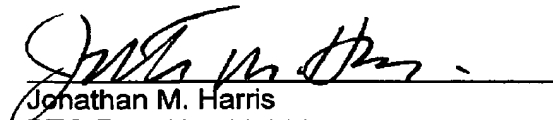
In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents

**Appl. No. 10/037,508  
Amdt. dated October 27, 2005  
Reply to Office action of July 19, 2005**

accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

  
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